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Junior Barristers' Page

By JOSEPH L. WYATT

Joseph L. Wyatt, Jr.

This issue of the Bar Bulletin of the Los Angeles Bar Association publishes the winning articles in the 1956 Junior Barrister Essay Contest, submitted, we hope, to educate as well as to win prizes.

Special thanks go to Justice Allen W. Ashburn, donor of the annual Ashburn Award, to the contest judges (Hon. Walter J. Fourt, Hon. Peirson M. Hall and Dean Robert Kingsley), and to the committee charged with the editing of this issue—Junior Barristers all—whose names appear at page 12, *infra*.

The growth and activity of the Junior Barristers continue; this year over two-thirds of the new membership of the parent Association are Junior Barristers, and many of our members are at work on Association committees and elsewhere, thanks to President Gray's interest in involving younger members in Association activities.

This business of putting everyone to work—assimilation, they usually call it—is always a problem in professional societies. It is

one of the most important matters the Junior Barristers have concerned themselves with this year. Our Association stationery quotes President Theodore Roosevelt to the effect that "every man owes some of his time" to his profession, and the Junior Barristers aim to give each of their members the opportunity to pay his debt.

Issue Editor—Lester E. Olson

Exempting the Charitable Use A Problem in Draftsmanship

By STUART B. WALZER

Stuart B. Walzer

Charitable organizations, using the term in its broad common law sense, are the recipients of a substantial bounty under the California Law. The church exemption,[1] and the welfare exemption[2] permit the exemption of substantial properties belonging to these institutions. There is reason to believe that many institutions miss out on these benefits for lack of an adequate understanding of the technical aspects of the law.[3] It is the purpose of this article to clarify certain aspects of the exemption statutes.

THE CHURCH EXEMPTION

The Church exemption is found in Article 13, Section 1½ of the California Constitution.[4]

Only such buildings as are used solely and exclusively for religious worship are exempted. While the authorities are lenient with regard to classification, a warning should be voiced. One of the officials from the Los Angeles County Assessors office tells the story of a suspicious claim for exemption. On inspecting the prem-

[1]Section 206, Revenue and Taxation Code, "The Church exemption is as specified in Section 1½ of Article XIII of the Constitution."

[2]Section 214, Revenue and Taxation Code.

[3]The importance of these exemptions to non-profit institutions may be illustrated by the following example. Assume that a charitable institution occupies land and buildings valued at $50,000. Assessed valuation, by established procedure, is computed at 50% of the actual value of the property. In our example assessed valuation would amount to $25,000. At a tax rate of 7% the tax would amount to $1750. It would be necessary to invest $43,750 at the conservative trust investment rate of 4% in order to secure $1750 per year.

[4]Article 13, Section 1½ provides: "All buildings and equipment, and so much of the real property on which they are situated as may be required for the convenient use and occupation of said building, when the same are used solely and exclusively for religious worship, and any building and its equipment in the course of erection, together with the land on which it is located as may be required for the convenient use and occupation of the building, if such building, equipment and land are intended to be used solely and exclusively for religious worship, shall be free from taxation; provided, that no building so used or, if in the course of erection, intended to be so used, its equipment or the land on which it is located, which may be rented for religious purposes and rent received by the owner therefor, shall be exempt from taxation.

It has been held that parking space immediately adjacent to a church is entitled to the church exemption. Immanuel Presbyterian Church v. Payne, 90 Cal. App. 176. A Constitutional amendment may extend this exemption to non-contiguous parking lots. Assembly Constitutional Amendment No. 3, to be submitted to the Electors of the State of California at a general election, Tuesday, November 6, 1956.

ises the deputy assessor found it to be a hall completely equipped with bar and dance floor. The claimant's response to the startled inquiry of the assessor was, "Man, that's the way we worship God." Exemption denied.

THE WELFARE EXEMPTION

The welfare exemption is broader in its coverage, but stricter in its technical requirements than the church exemption.[5]

Two considerations apply in pursuing the welfare exemption. The first may be posed in the form of a question: Do the activities which are conducted on the premises justify seeking a welfare exemption? Having answered the first question affirmatively, the next step is to conform the organizational documents[6] to the stringent requirements of Section 214 of the Revenue and Taxation Code.[7]

ACTIVITIES WHICH JUSTIFY A WELFARE EXEMPTION

An excellent law review article,[8] written in 1951, summarized the activities to that time which the courts had approved as proper subjects for the welfare exemption.

Little has been added in the way of tax-exempt uses of property since 1951. The case of Pacific Homes v. County of Los Angeles

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[5]Any doubt in the law is to be resolved against exemption. Sutter Hospital of Sacramento v. City of Sacramento, 39 C 2d 33, (1952). But c.f. those cases which call for a "strict but reasonable" construction of the exemption statute. Pacific Home v. Los Angeles County, 41 C 2d 844 (1954); Serra Retreat v. Los Angeles County, 35 C 2d 755 (1950).

[6]"Organizational documents" as used in this article, refer to the articles of incorporation of a non-profit corporation, the constitution of a non-profit association, or to a charitable trust indenture.

[7]Article 13, Section 1c of the Constitution, and Section 214 of the Revenue and Taxation Code spell out the scope and the requirements of the welfare exemption.

[8]California Property Tax Trends: 1850-1950, 24 Southern California Law Review 252.

"Hospital uses" were construed to include: (Cedars of Lebanon Hospital v. County of Los Angeles, 35 Cal. (2d) 729, 221 Pac. (2d) 31 (1950.).) (1) nurses' training schools; (2) portions of hospital grounds used for housing nurses despite monthly charges made therefor; (3) similar properties used for housing of internes, resident doctors and other hospital personnel; (4) tennis courts on hospital grounds as a proper recreational facility incidental to the hospital use. On the other hand, the following were not included: (Cedars of Lebanon Hospital v. County of Los Angeles, supra) (1) a building under construction intended for future hospital use; (2) a portion of a hospital building used to house a thrift shop in which donated clothing and furnishings were sold and the proceeds used to maintain a free clinic, the court holding that such was conducted for "profit."

"Religious and charitable" purposes were held to include: (1) dormitory facilities at a YMCA although a minimum charge was made for housing therein; (YMCA v. County of Los Angeles, 35 Cal. (2d) 760, 221 Pac. (2d) 47 (1950).) (2) housing for priests and laymen at a residence used for religious "retreat" purposes. (Serra Retreat v. County of Los Angeles, 35 Cal. (2d) 755, 221 Pac. (2d) 59 (1950).) (3) a home for the aged, although a minimum of $5,500 was required from each inmate, since it appeared that the entire income from the institution from all sources was insufficient for its operating expense and it was forced to rely in part on donations and gifts; (Fredericka Home v. County of San Diego, 35 Cal. (2d) 789, 211 Pac. (2d) 68 (1950).) (4) portions of a home for the aged used for housing of necessary personnel. (Fredericka Home v. County of San Diego, supra.)

The following were held not included: (YMCA v. County of Los Angeles, supra) (1) "Restaurant facilities, tailor and barber shops located in a YMCA and serving its members and the public and charging standard prices, irrespective of the fact that all of the revenue was used exclusively for YMCA purposes; (2) The gym store in a YMCA selling lines of merchandise over and beyond the athletic needs of the members; (3) Office space in a YMCA rented to a governmental agncy."

extended the welfare exemption to include a home for furloughed missionaries.[9] A recent case has added a new and very broad category of tax exemption, namely, non-profit schools owned by non-profit corporations.[10]

California follows a generous rule in its pattern of exemption. The courts find that if a particular facility is "reasonably necessary" to the efficient operation of a charitable institution, it will be tax exempt.[11] An extension of the exemption to new uses would appear to be limited only by the ingenuity of counsel.

DRAFTING THE ORGANIZATIONAL DOCUMENTS

We have considered some of the uses of property which will justify a tax exemption. Wholly aside from the matter of the use to which the property is put is the requirement of Section 214 of the Revenue and Taxation Code that the powers of the organization with regard to its property conform to the Code Section. A proper wording of the organizational documents suitably restricting the organizations powers is a *sine qua non* to the securing of a welfare exemption.[12]

To digress briefly, there is reason to believe that at such time as the corporate documents conform to Section 214 at least some tax exemption will be forthcoming. This statement is based upon a deduction from the procedures by which an exemption is secured. An affidavit, containing extensive financial statements, and accompanied by the organizational documents such as articles of incorporation and amendments thereto must be filed with the local assessor.[13] These documents, by the terms of Section 254.5 are forwarded to the State Board of Equalization, located in Sacramento. There, they are carefully perused in the Division of Assessment Standards. If they meet the standards of Section 214 a clearance is given the local County Assessor to proceed with a determination as to the exemptability of properties belonging to the claimant. The

[9]41 C 2d 844 (1953). One interesting factor in these cases involving homes for superannuated persons is that a contribution of all of their property by the old folks does not effect the exemptability of the property.

[10]Lundberg vs. County of Alameda, 46 Cal. 2d 648; 298 Pac. 2d, 1. (1956).

[11]Cedars of Lebanon Hospital v. Los Angeles, 35 C. 2d 729 (1950); Serra Retreat v. Los Angeles 35 C. 2d 755 (1950); Fredericka Home for Aged v. San Diego 35 C. 2d 789; and see annotation at 15 ALR 2d 1064 for the application of this rule in other jurisdictions.

[12]"Thus, the claimant's manner of operation and its uses, past or present, of its properties is wholly immaterial. The critical factor is its powers with respect to its properties; and these powers, in the case of a corporate claimant, must ordinarily be ascertained from its articles of incorporation." Pacific Home v. Los Angeles, 41 C. 2d 844, 849. (1953).

[13]Section 254.5 Revenue and Taxation Code.

local County Assessors are liberal in their determination of what constitutes an exempt use of property and some tax savings can usually be anticipated without further action.

If, however, the organizational documents are not approved, the applicant is informed by a short letter from the County Assessors office to the effect that the organizational documents do not conform to the requirements of Section 214, and that exemption has been denied for the current year.[14] The local assessor need not and does not consider the status of individual pieces of property to determine whether or not they are tax-exempt. The applicant has, in effect, never "got off the ground."

What, then, are the requirements for organizational documents and what are some of the pitfalls the applicant encounters in seeking the exemption. The first requirement is that: "The owner is not organized or operated for profit; * * *."[15] The test of whether an organization is operated for profit does not depend upon draftsmanship but is based upon whether the charges or the organization are fixed with the intention of yielding a surplus over and above operating expenses.[16] This is a practical question, which the assessor and ultimately the courts must determine from the financial documents submitted as part of the affidavit for the exemption. In order to give hospitals some leeway in this matter an amendment to Section 214 permits these institutions to earn a 10% profit.[17] Old folks homes are permitted to charge fees without losing their exemption.[18]

The major pitfalls arise when we come to consider the requirements of Section 214(6).[19] Minor mistakes in the phrasing of the organizational document have been the downfall of many an organization, including those represented by skillful corporate counsel.

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[14]The only reasonable program for the applicant who has been denied his exemption is to peruse the organizational documents carefully, for the purpose of effecting an amendment. The tax authorities are not estopped from denying an exemption though they may have granted an exemption in previous years. The taxing authorities are not required to place the taxpayers on notice of new judicial decisions in advance of the tax lien date in time for the taxpayer to take whatever steps are necessary to secure the exemption. Goodwill Industries v. Los Angeles, 117 C.A. 2d, 19, 26 (1953).

Therefore, though counsel believes that the documents were adequate under the law and though he intends to contest the assessors determination, nevertheless, it will behoove him to make any amendments indicated by recent decisions. This will prevent the same problem from arising in the following year, and will not inhibit the contest of what is believed to be an unjust determination by the taxing authorities.

[15]Section 214(1) Revenue and Taxation Code.

[16]Saint Francis Memorial Hospital v. San Francisco, 137 C.A. 2d 321 (1955), Sutter Hospital v. Sacramento, 39 C. 2d 33 (1952).

[17]214 (1) as amended Stats (1949), C. 642, P. 1150, Section 1.

[18]Fredericka Home for Aged v. San Diego, 35 C. 2d 789 (1950), 254 P. 2d 877.

[19]This section has been fruitful of much litigation. Pasadena Hospital v. Los Angeles, 35 C. 2d 799 (1950); Pacific Homes v. Los Angeles, 41 C. 2d 844 (1954); Goodwill Industries v. Los Angeles, 117 C.A. 2d 19 (1953).

Section 214(6) incorporates two requirements. First, the property must be "irrevocably dedicated" to religious, charitable, or hospital purposes. In Pasadena Hospital v. Los Angeles[20] the articles of incorporation authorized the hospital to carry on "any . . . lawful purpose where pecuniary profit is not the object thereof." Further, the corporation was vested with authority "to carry on any other lawful business enterprise, or activity whatsoever . . . to enhance the value of its properties." The court held that the presence of these broad powers was fatal to the corporations claim that it had irrevocably dedicated its property to exempt purposes.

In the case of Moody Institute of Science v. Los Angeles[21] the Institute's articles empowered it to "study the relationship between science and the Bible, and to encourage a faith in and acceptance to that sacred volume; to spread and teach the results of its study and research by classroom instruction, books and pamphlets, by radio, television, and moving and still pictures; to receive and hold money and property for these purposes; and for other religious, scientific and educational purposes."[22] Plaintiff contended that its purposes were such as to irrevocably dedicate its property to religious uses. It argued that the "powers" found in its articles whereby it might hold property for educational uses was controlled by the religious "purposes" in those same articles. The court rejected the distinction between "purposes" which controlled incidental "powers" and held against exemptability.[23]

In Goodwill Industries v. Los Angeles,[24] the articles, in addition to providing for charitable purposes, expressly included such purposes as providing for industrial education, building and equipping trade schools, etc. It is obvious to anyone familiar with the nature of the Goodwill Industries that the principal purpose of the organization is to dispense charity, and that all other aspects of the work are incidental thereto. But certain errors in draftsmanship proved fatal. It appears that the main charitable purpose and incidental educational purposes were all lumped together in one section, along

[20]35 C. 2d 779 (1950).
[21]105 C.A. 2d 107 (1951).
[22]Since the case of Lundberg v. County of Alameda, supra, note 10, it is probable that educational purposes are now exempt. However, that decision must be interpreted with caution, and it may be unwise to extend it to all educational purposes.
[23]Justice White dissenting, took the view that plaintiff's articles permitted the use of its property for "educational purposes" only insofar as such educational activities refer and are incidental to the promulgation of its "religious purposes." In so doing, he upheld the plaintiff's argument that its powers must be interpreted in the light of its purposes.
[24]117 C.A. 2d 19 (1953).

with a blanket provision providing that the corporation might "carry on any and all operations necessary or convenient in connection with any of its objects or the transaction of any of its business." The court held that the powers given by the articles were sufficiently broad so that the corporation had the power to use the property for non-exempt purposes. In puncturing one rather inapposite argument made by the plaintiff, the court said:

> "As in the Moody Institute case, there is nothing in plaintiff's articles of incorporation which in any way limits or restricts its non-exempt purposes or subordinates them to the status of powers which are merely incidental to a program of charitable rehabilitation of the handicapped or aged."[25]

Pacific Home v. Los Angeles County[26] lends encouragement to the draftsman in that the Home won the argument. Here a corporation was formed for the purpose of maintaining and operating a "home or homes for worthy aged and infirm persons." The corporation had the usual subordinate purposes clauses, e.g., "to buy, sell, etc. as is necessary, auxiliary, incidental or convenient to its needs or purposes" and "to do all and everything necessary, suitable and proper for the accomplishment of its purposes . . . etc." The court found that these various incidental powers were no more than the corporation was granted by statute, and further held that they were clearly incidental to the main purpose of the corporation. It was further held that no express words of irrevocable dedication were required, but that "the requirement of irrevocable dedication is ordinarily to be determined by ascertaining the powers of the owner with respect to its assets . . ."

The second requirement of Section 214(6) is that, upon dissolution of the organization owning the property, said property will not inure to the benefit of any private person except a fund, foundation or corporation organized for religious, hospital . . . or charitable purposes. In this regard the case of Pacific Homes v. Los Angeles[27] states an extremely liberal rule—so liberal, in fact, that it would be foolhardy to rely on it. Pacific Homes' articles provided that in case of dissolution all the corporate assets should pass to a successor corporation. The successor corporation's articles provided for both charitable and non-exempt uses. The court reasoned that all properties donated to a charitable corporation are impressed

[25] Id, at 24.
[26] 41 C. 2d, 844 (1953).
[27] Id, at 26.

with a trust for charitable purposes. The applicant corporation, Pacific Homes, was a charitable corporation, and therefore, all properties donated to it would be impressed with a trust. The successor corporation, having among its purposes a charitable purpose, would be required to maintain the charitable trust as to all properties acquired from the applicant corporation. It was therefore held that Pacific Homes' articles of incorporation were sufficient for purposes of Section 214(6).

CONCLUSION

It remains for us to assess the practical lessons which may be learned from the cases. First, it is recommended that in drafting the organizational documents of a charity, a hospital or a religious organization, Section 214 of the Revenue and Taxation Code be followed with particularity. Wherever possible, actual code language should be used. This is not a recommendation that code language be transposed slavishly and without thought to the actual needs of the organization. Nevertheless, a substantial restatement of code language will avoid the contention on the part of the assessor's office that there has been a variance from the requirements of the exemption statute.

Second, it is recommended that a clear differentiation be made between the main purpose of the organization and such incidental powers as it may need to conduct its activities. The following language is one possible method by which the secondary powers may be clearly subordinated to the organization's main purpose:

> "The following acts are authorized as clearly incidental to the primary religious and charitable purposes set forth in Article Four: To acquire by all lawful means, both real and personal property, etc."

Third, it should be made clear that the property of the organization is irrevocably dedicated to the purposes set forth in the main purpose clause of the organizational documents. In setting up an irrevocable dedication clause the clause should be related directly to the main purpose clause. An example of this kind of dedication might read as follows:

> "Property of the corporation used for religious or charitable purposes, or for school purposes of less than collegiate grade, shall be used exclusively for such purposes and more particularly for the purposes set forth in Article Four (the main purposes clause) of these Articles."

Similarly, a workable liquidation clause might read as follows:

> "In the event of the liquidation, dissolution, or abandonment of this corporation, the assets thereof shall not inure to the benefit of any private person, except a fund, foundation, or corporation organized exclusively for religious and charitable purposes, and whose purposes are similar to those of this corporation as stated in Article Four, which said fund, foundation or corporation shall be selected by a majority vote of the individuals who are members of the last board of directors of said corporation."

Finally, it is suggested that before the amended articles are filed in Sacramento they be taken to the Local County Assessor's office for discussion. The gentlemen that staff these offices are generous and helpful persons who will, if asked, guide the practitioner and help him to secure the benefits of the law for his client.

A History of Oil and Gas Conservation in California

By ROBERT B. KRUEGER

EDITOR'S NOTE: The May, 1956 issue of the BAR BULLETIN contained the arguments pro and con with respect to Proposition 4—the "Oil and Gas Conservation Act." The publication of Mr. Krueger's winning essay should not be construed as any additional discussion of the very controversial measure by THE BAR BULLETIN. Mr. Krueger's article deserves careful study by both proponents and opponents.

Robert B. Krueger

In 1859 a retired railroad conductor, Colonel Edwin L. Drake, brought in the world's first modern oil well[1] near Titusville, Pennsylvania, and introduced America's petroleum era.[2] Less than a hundred years later, there are today approximately 550,000 oil and gas wells in 20 states[3] which produce annually almost half of all energy used in the United States. From a period of almost total ignorance in petroleum engineering and geology—a period of "doodlebug" prospecting in which it was commonly thought that oil lay under the earth in inexhaustible lakes and rivers[4]—the oil industry has progressed to the point where wells, literally miles

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[1]There had been considerable production prior to that time (the first recorded production took place in the great Rumanian field in 1857) but it had been accomplished by archaic methods such as hand-dug wells or pits. Drake's contribution to modern drilling was not the depth of his well (69½ feet) or its production (25 BPD pumped) but his use of (1) a prototype of modern cable-tool methods; (2) casing to prevent caving; (3) a derrick to suspend casing above the well hole; and (4) inanimate power in drilling. See, for a history of the industry, 1 Thornton, Oil and Gas, §2, et seq. (1932); Higgins, California's Oil Industry (1928); Petroleum, API (1949).

[2]While there was a demand in 1859 for oil as an illuminant and in medicines and lubricants, the first great demand occurred around 1875, when oil began to be used for heating and power, and 1900 with the development of the internal combustion engine (previously gasoline had been a waste product).

[3]Statistical Bulletin, Vol. XXXVII, No. 19, API (1956). California with approximately 40,000 wells is fifth in rank in terms of number of wells; however, in terms of current oil production (1954—355,779,000 bbls., approx. 14% of national total) and proven reserves (1954—approx. 4 billion bbls., approx. 17% of the national total) it is second. The five leading states produce over 70% of the national total. In the order of their production rates, the leading states are: Texas (over 40% of the national total), California, Louisiana, Oklahoma, and Kansas. See Statistical Abstract of the United States, 76th Ed. 750 (1955); World Petroleum Report (Annual) 141 (1955).

[4]Even after experience had proven that underground oil did not lay in a free liquid state, but under pressure in the interstices of strata of sandstone, many early producers thought that the quicker the pressures were utilized, the greater the recovery of oil would be; in he early 1900's it was realized that this idea was fallacious and that reservoir energy, consisting variously of dissolved or free gas and edge or bottom water, must be preserved in order to get the greatest recovery. See 1 Summers, Oil and Gas, 217 (1954) (hereinafter referred to as Summers).

deep, can be drilled with pin-point accuracy to technologically probable formations[5] and experts are able to determine within reasonable limits the size and recoverable oil content of a developed pool.[6]

This contrast is the key to any understanding of oil and gas conservation principles. When the question of the nature of the ownership of oil and gas first arose, the courts were forced to analogize. Not surprisingly, in view of the then current views of the oil industry, the most popular analogy chosen was that of ownership of wild animals—the Rule of Capture.[7] The Pennsylvania court stated in *Westmoreland & Cambria Natural Gas Co. v. De Witt*:[8]

> ". . . Water and oil, and still more strongly gas, may be classed by themselves, if the analogy be not too fanciful, as minerals ferae naturae. In common with animals, and unlike other minerals, they have the power and the tendency to escape without the volition of the owner. Their 'fugitive and wandering existence within the limits of a particular tract was uncertain,' as said by Chief Justice Agnew in Brown v. Vandegrift, 80 Pa.St. 147, 148. They belong to the owner of the land, and are part of it, so long as they are on or in it, and are subject to his control; but when they escape, and go into other land, or come under another's control, the title of the former owner is gone. Possession of the land, therefore, is not necessarily possession of the gas. If an adjoining, or even a distant, owner, drills his own land, and taps your gas, so that it comes into his well and under his control, it is no longer yours, but h's. . . ."

The adoption of the Rule of Capture and its corrollary, the Offset Drilling Rule,[9] by the courts of all major oil-producing states[10] led inevitably to production abuses and waste. Despite a growing

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[5]In 1955 Ohio Oil drilled California's deepest test well—21,482 feet; more recently Socony Mobil drilled a wildcat well to 22,570 feet in southern Louisiana. Despite the advance of geology, paleontology and geophysics, a prospector still has to drill a hole to find out if the oil is there. In 1954 California developers were only 14% successful as to wells drilled. See Taylor, California Operators Drilled 556 Miles to Find 10 Fields, 40 Pools in '54, 52 Petroleum World and Oil (No. 42) 41 (1955); Petroleum, API 35 (1949).

[6]Brown v. Humble Oil & Refining Company, 126 Texas 296, 83 S.W. 2d 935 (1935). See, also, Legal History of Conservation of Oil and Gas, A Symposium (ABA) 11 (1938); Andrews, The Correlative Rights Doctrine in The Law of Oil and Gas, 13 So. Calif. L. Rev. 184, 197 (1949).

[7]Some courts also chose the analogies of solid minerals and subterranean water.

[8]130 Pa. 235, 18 Atl. 724, 725 (1889). Moses, in his article, The Constitutional Legislative and Judicial Growth of Oil and Gas Conservation Statutes, 13 Miss. L. Rev. 353, 355 (1941), states that the Rule has never been defined by the courts and its inception is unknown although it has been attributed to this language.

[9]Hardwicke defined the offset drilling rule in his article, The Rule of Capture and Its Implications As Applied to Oil and Gas, 13 Tex.L.Rev. 391 (1935):

> "An owner of land which is being drained by the operation of wells in neighboring lands can not enjoin the further operation of the offending wells and cannot recover damages from the operator thereof, but must protect his lines as best he can 'by producing from offset wells drilled on his own lands.'"

[10]1 Summers, §§62, 63. The fact that some of these states adopted a rule of owner-

body of knowledge of the economic and physical facts of oil, responsible producers were frustrated in their efforts to institute efficient production practices by rules which put a premium on the speed and quantity of oil withdrawal. In the Santa Fe Springs field the production race was so heated that in large areas, such as the so-called "Hell's Half Acre," wells were drilled to such an intensity that the legs of the derricks interlocked; this sort of situation was typical of early development in the Los Angeles Basin.

Nevertheless, it was apparent from an early date that the oil industry as a whole was desirous of correcting production abuses and it supported many laws which, to some extent at least, ameliorated the effect of the Rule of Capture. Pennsylvania initiated conservation legislation in this country by enacting in 1878 a statute which prescribed plugging of abandoned wells.[11] This was followed by similar legislation which was narrowly drawn to prevent waste resulting from certain specified behavior.[12]

In 1893 Indiana enacted a statute which made it unlawful to permit the escape of oil or gas from any well for more than two days after oil or gas had been struck, without storing the same. In the landmark decision of *Ohio Oil Co. v. Indiana*,[13] the United States Supreme Court upheld the constitutionality of the measure on two separate bases: (1) the police power of the state to prevent waste of natural resources; and (2) the power of the state to legislate to protect the rights of owners in a common source of oil and gas. This was the first authoritative statement that the Rule of Capture was not a constitutionally protected property right and that every landowner possessed in common with other owners of a common source of supply the privilege, which could be protected by statute, of taking his fair share of oil from such source. While this doctrine of "correlative rights has not been used by the courts, in the absence of statute, to adjust the anachronistic Rule of Capture,[14] it has been applied to some extent in conservation legis-

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ship in place as to oil and gas appears to have made no difference in their application of the Rule of Capture; see Moses, op.cit. supra, note 8, at 358. In Callahan v. Martin, 3 Cal. 2d 110, 118 (1935), California adopted the non-ownership or exclusive rights doctrine.

[11]Pa. Laws 1878, p. 56. For a discussion of similar enactments, see 1 Summers §72.

[12]Such statutes variously prescribed casing requirements, prohibited or regulated the manufacture of carbon black, and prohibited the burning of natural gas in flambeau lights. See 1 Summers §73, et seq.

[13]177 U.S. 190, 20 S.Ct. 585 (1900).

[14]Some writers believe that there is a true "right" to a fair share of a common source of supply that is enforceable exclusive of statute. See Legal History, op.cit. supra, note 6, at 10; Andrews, op.cit. supra, note 6, at 197.

lation[15] and has been relied upon by the courts in upholding conservation legislation.[16]

Experience showed, however, that self-executing, piecemeal legislation of the early Pennsylvania and Indiana type was ineffectual in preventing waste in a complex constantly growing oil industry. In the early 1900's the legislatures of the major oil states began enacting administratively-executed anti-waste statutes of a much more comprehensive nature; today there is no oil-producing jurisdiction that is without one. The modern statutes of the majority of the oil-producing states authorize the conservation agency to issue any rule, regulation or order, including limitation of production, necessary or proper to prevent "waste."[17] "Waste" is usually defined to mean production in any manner which causes, or tends to cause, a decrease in the maximum quantity of oil or gas ultimately recoverable;[18] many modern statutes also include within the definition the inefficient, excessive or improper use or dissipation of reservoir energy. The statutes of the leading midcontinent oil states, Texas, Oklahoma, Kansas and New Mexico, also prohibit what has been loosely called "economic waste," i.e., production in excess of market demand.[19] Most of the conservation statutes also authorize the conservation agencies to regulate well spacing, to establish drilling units, and to require the pooling of tracts within drilling units in the absence of voluntary agreements.[20]

All the foregoing conservation standards and controls are aimed at the same objective—ultimately getting more usable oil and gas out of the ground. For obvious economic reasons, the oil industry has been concerned about the same goal. It is, in fact, the modern industry's pre-occupation with this objective which has led it to use voluntarily probably the most efficacious conservation device that has yet been developed—the unitization agreement. "Unitiza-

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[15]1 Summers 189.

[16]Bandini Petroleum Co. v. Superior Court, 284 U.S. 8, 22, 52 S.Ct. 103, 108 (1931); Champlin Ref. Co. v. Corporation Comm., 286 U.S. 210, 52 S.Ct. 559 (1932); Sterling v. Constantin, 287 U.S. 378, 53 S.Ct. 190 (1932). Cf. People v. Associated Oil Co., 211 Cal. 93, 103, 294 Pac. 717 (1930).

[17]1 Summers at 223. Texts of the statutes are collected in 5 and 5A Summers. See also 4 ALR 2d 198 (Waste of Gas or Oil).

[18]While "waste" is classified for various purposes in oil and gas legislation, this meaning (technically described as physical "underground" waste) is probably the most commonly understood. See 1 Summers at 195.

[19]Such statutes permit the conservation agencies to prorate a statewide allowable to each well or drilling unit within a pool. There is no longer any doubt as to the constitutionality of such statutes as conservation measures. Champlin Ref. Co. v. Corporation Comm., 286 U.S. 210, 52 S.Ct. 559 (1932). See 1A Summers §87, et seq.

[20]The laws of at least 21 states contain such provisions. "Pooling" is simply the cooperative unitized development and operation of the various tracts located within a drilling unit; it is essentially junior-size unitization. See 1 Summers §83.

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tion," simply stated, is the development and/or operation of a pool or field as a single unit without regard to property lines and separate interests.[21] It is axiomatic that a plan which permits development and operation of a pool or field on engineering, rather than legal, principles will increase ultimate recovery.[22] Unitization permits scientific development of new fields and permits increased production from settled and stripper fields by permitting pressure maintenance and repressuring operations.[23]

Despite the obvious difficulties attendant upon securing the consent of all legally interested persons to a unitization plan, coupled in the early days with the threat of possible antitrust law violations, the advantages inherent in the device have led to the voluntary unitization of a surprising number of fields,[24] and ultimately to the statutory approbation of such agreements.[25] Such statutes uniformly require the approval of conservation agencies to the unitization agreements and provide that such agreements are not violative of state antitrust laws.[26] The courts have never construed general oil and gas conservation statutes, permitting agencies to issue any rules or orders necessary to prevent waste, to authorize such agencies to issue orders compelling the unitization of interests in an oil or gas pool, regardless of the preventive effect on waste.[27] Consequently, the legislatures of a sizable number of the oil-producing states have enacted specific legislation permitting the conservation agencies to compel unitization.[28] The best known of these measures, the Oklahoma Unitization Act,[29] enacted in 1945, permitted the Corporation Commission to issue orders compelling the unitization of all interests in any "common source of supply or portion thereof" for the

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[21]Hoffman, Voluntary Pooling and Unitization 240 (1954).

[22]There seems to be near unanimity of the experts on the value of unitization. Disagreement appears only to arise on the issue of whether it should be compulsory or voluntary. Hardwicke, Unitization Statutes: Voluntary Action or Compulsion, 24 Rocky Mt.L.Rev. 29 (1952); German, Compulsory Unit Operation of Oil Pools, 20 Cal.L.Rev. 111 (1932); 1A Summers at 140.

[23]Reservoir pressure may be maintained, and in some instances restored, by the injection of water and gas into and around the oil strata. In most states such operations are a practical impossibility without unitization. See 1 Summers at 231.

[24]A majority of California "majors" and large "independents" are parties to one or more unit agreements in various fields.

[25]All major oil-producing states have statutes authorizing such agreements. 1A Summers §242. Federal statute authorizes the Secretary of the Interior to approve of unit operation of federal lands. 30 USC §184a.

[26]Federal antitrust law is left in effect; however, the only reported case in which it was applied to a unit agreement was dismissed. See 1A Summers at 157.

[27]Western Gulf Oil Co. v. Superior Oil Co., 92 Cal.App. 2d 299, 206 P.2d 944 (1949); Dobson v. Arkansas Oil and Gas Comm., 218 Ark. 160, 235 S.W.2d 33 (1950); Union Pacific R. Co. v. Oil & Gas Conservation Com'n., 131 Colo. 528, 284 P.2d 242 (1955).

[28]See Ark. Stats. §53-115; La. S.A.-RS 30: 5B; Nevada Laws 1953, Ch. 202, §7; 1 Summers 246. 30 U.S.C. §226e permits compulsory unitization by the Secretary of Interior of the lands leased under the Mineral Leasing Act.

[29]The statute, as reenacted in 1951, now is 52 O.S. §§287.1-287.15.

operation or development under a unitization plan which had been filed by the lessees of record of 50% or more of the area sought to be unitized; the Act required a finding by the Commission that the plan would be "feasible, will prevent waste and will with reasonable probability result in the increased recovery of substantially more oil and gas" and would be "fair, reasonable and equitable." In *Palmer Oil Corp. v. Phillips Petroleum Co.*,[30] the Oklahoma Supreme Court upheld the Unitization Act as constitutional against objections based upon the contract clause and the due process and equal protection provisions of the state and federal constitutions. Any doubt as to the constitutionality of such measures was removed by the United States Supreme Court's action in dismissing an appeal from the state Supreme Court decision for want of a substantial federal question.[31]

The history of California conservation legislation has echoed the somewhat anomalous development of the local oil industry and of the state itself. From the first real development in Pico Canyon in 1875[32] until the present, discovery and development have been extremely diversified; there has never been one dominant group of producers or area of production. The vigorous competition between independent oil producers and the so-called majors has been largely responsible for the extensive development in the state; unfortunately, it has also at times led to reckless exploitation, unnecessary waste, and permanent injury to some of our best fields.

The first conservation legislation of any present importance was the Act of August 9, 1915.[33] That Act created a Department of Petroleum and Gas and the Oil and Gas Supervisor who was directed:

> ". . . so to supervise the drilling, operation and maintenance and abandonment of petroleum or gas wells in the State of California, as to prevent, as far as possible, damage to underground petroleum and gas deposits from infiltrating water and other causes and loss of petroleum and natural gas."

The Act contained provisions, based on an earlier statute,[34] which regulated drilling, casing, plugging, cutoffs and abandon-

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[30]204 Okla. 543, 231 P. 2d 997 (1951). See Spiers v. Magnolia Petroleum Co., 206 Okla. 503, 244 P. 2d 843 (1951).

[31]Palmer v. Amerada Petroleum Corp., 343 U.S. 390, 72 S.Ct. 842 (1951). See, 37 A.L.R. 2d 434 (compulsory drilling units); 1A Summers at 166.

[32]C. A. Mentre brought in a well at 75 feet which produced at 5-6 BPD. This was the first production of record although oil had been produced by tunnels, pits, etc., since around 1860 in the Ventura-Newhall area.

[33]Stats. 1915, p. 1404.

[34]Stats. 1909, p. 586. The first California conservation statute appears to have been Stats. 1903, p. 399, which was modeled on the 1878 Pennsylvania Act.

ment, and required operators to file notice of proposed operations, logs for wells drilled, and statements of monthly production.[35] The interesting aspect of the Act was that nowhere did it prohibit production by an operator in a manner which would cause waste of oil or gas; the onus of discovery and prohibition of waste was placed on the Supervisor. The deputies of the Supervisor were required to collect information,

> ". . . with the view to advising the operators as to the best means of protecting the oil and gas sands, and with a view to aiding the supervisor in ordering tests or repair work at wells. . . ."

The supervisory powers of the Supervisor were limited

> ". . . to order such tests or remedial work as is in his judgment necessary to protect the petroleum and gas deposits from damage by underground water, to the best interest of the neighboring property owners and the public at large. . . ."

Further, if a well owner did not approve of an order issued to him, he could compel arbitration to determine whether or not such an order should be enforced.

The Act thus left the Rule of Capture in full effect. Operators legally could, and a considerable number did, sink as many wells as they wished and produce at as high a rate as they wished without regard to dissipation of reservoir energy or other underground conditions. The standards and sanctions provided by the Act proved inadequate to control the gross waste of natural gas that occurred in 1928, and in 1929 it was amended to provide:[36]

> "The unreasonable waste of natural gas by the act, omission, sufferance or insistence of the lessor, lessee or operator of any land containing oil or gas, or both, whether before or after the removal of gasoline from such natural gas, is hereby declared to be opposed to the public interest and is hereby prohibited and declared to be unlawful. The blowing, release or escape of natural gas into the air shall be prima facie evidence of unreasonable waste."

The amended Act established the procedure for the enforcement of this prohibition against waste upon a complaint to the Director of the Department of Natural Resources (formerly Department of Petroleum and Gas), followed by a hearing conducted by the Supervisor which could result in an order for discontinuance of any unreasonable waste. Such an order could be enforced by court

[35]These provisions as amended in 1929 are presently Pub.Res. Code §3200, et seq.
[36]Stats. 1929, p. 923. The waste provisions of the amended Act are presently Pub. Res. Code §3300, et seq.

proceedings. The amendment also empowered the Director even without such a complaint or hearing, to institute proceedings in the name of the People of the State of California to enjoin any unreasonable waste of gas. The amended Act was immediately used by the Director of Natural Resources in obtaining an injunction against the obvious waste of natural gas which was then occurring in the Santa Fe Springs Field. The defendant oil producers attacked the injunction and the statute itself on constitutional grounds, but both were squarely upheld in *Bandini Petroleum Co. v. Superior Court*,[37] and *People v. Associated Oil Co.*[38]

The Act was construed by the California Supreme Court to prohibit the withdrawal of natural gas "without its lifting power having been utilized to produce the greatest quantity of oil in proportion."[39] However, the broad antiwaste implications of this approach were limited by Section 11 of the Act which permitted production of natural gas in excess of a reasonable proportion to oil produced if such excess was being used for industrial purposes and there was no available gas for such purposes which was not being produced in excess of such proportion. This placed a great burden of proof on the Supervisor and, as a consequence, the Act was used in most instances to prevent only the actual blowing of gas into the air.[40] This situation was rectified in 1955 when §11 of the Act, Pub.Res.Code §3307, was amended to prohibit production of natural gas in excess of a reasonable proportion to oil produced, even though such excess was being used for industrial purposes. The Act as it now stands is a workable legal tool for the conservation of natural gas. Through the incidental preservation of reservoir energy it also tends to increase the maximum recovery of oil. However, the efficient use of natural gas is simply one of the several techniques that are needed to achieve a maximum recovery of oil. Without the addition of provisions which would permit the exploitation of other underground forces, such as water drive, and intelligent well spacing, the Act would appear to be inadequate by modern day standards.

The 1929 amendment also provided for approval of unitization

[37]110 Cal.App. 123, 293 Pac. 899 (1930), aff'd 284 U.S. 8, 52 S.Ct. 103 (1931).
[38]211 Cal. 93, 294 Pac. 717 (1930).
[39]Id. at 107. See, also, Ambassador Petroleum Co. v. Superior Court, 208 Cal. 667, 284 Pac. 445 (1930); People v. Associated Oil Co., 212 Cal. 76, 297 Pac. 536 (1931).
[40]In re Wood, 34 Cal.App. 2d 546, 93 P. 2d 1058 (1939), involved waste other than by blow-off. Cf. Tide Water Assoc. Oil Co. v. Superior Court, 43 Cal. 815, 279 P. 2d 35 (1955). See Legal History, op.cit. supra, note 6, at 35.

agreements for the purposes of development, operation, storage and repressuring by the Oil and Gas Supervisor whenever "it is in the interest of the protection of oil or gas from unreasonable waste." Essentially, the same provision is in effect today in Public Resources Code Section 3301 and Section 6832 which pertains to state-leased lands. These provisions require unanimity on the part of the owners of all lessors' and lessees' interests concerned.[41]

California appears to be the only state which has a spacing statute which is predicated on a nuisance, rather than a conservation, theory.[42] In 1931 the Legislature enacted the Town Lot Drilling Act[43] which in essence prohibited the drilling of more than one well per acre in new fields. In 1947 the Supreme Court held that the Act was unconstitutional as applied to prevent drilling by a lessee of a tract less than one acre in size, surrounded by producing property.[44] As a consequence, the Leigslature added Public Resources Code Section 3608 providing for compulsory pooling in this situation; the Act, as amended, has been held constitutional.[45] The Town Lot Act has a negligible effect on conservation for two reasons: (1) the inflexible area fixed by the Act is much less than the effective recovery zone of a well; and (2) the Act, as construed, applies only to surface locations.[46]

California has no statute which permits proration or restriction of production to market demand. In California, even during the periods of sizeable overproduction in the 1930's and early 1940's, compulsory proration never caught on with the voter or a considerable proportion of the producers. In both 1931 and 1939 the populace defeated by referendum vote market control statutes which would have permitted proration.[47]

Measured against the conservation law of other oil-producing states, California conservation laws appear to fall short in the fol-

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[41]Until 1948 only 18 unit agreements had been approved by the Oil and Gas Supervisor. Conservation of Oil and Gas (ABA) 49 (1948).

[42]California appears to be the only state which fixes well locations with respect to property lines and other wells. The statutes of other oil jurisdictions commonly authorize the establishment of drilling units, the size of which will vary with the scope of effective drainage. See 1 Summers §§83, et seq.

[43]Stats. 1931 c. 586. It is presently Pub.Res.Code §§3600, et seq.

[44]Bernstein v. Bush, 29 Cal. 2d 773, 177 P. 2d 913 (1947).

[45]Hunter v. Justice's Court, 37 Cal. 2d 315, 223 P. 2d 465 (1950). See, also, Wooton v. Bush, 41 Cal. 2d 460, 261 P. 2d 256 (1953).

[46]Richfield Oil Corp. v. Crawford, 39 Cal. 2d 729, 249 P. 2d 600 (1952), vacating 241 P. 2d 1020 (Cal.App. 1952).

[47]See Stats. 1931 Ch. 585 (the Sharkey Bill); Stats. 1939 Ch. 811 (the Atkinson Bill). There is an extensive history of voluntary proration in California, however. Conservation of Oil and Gas (ABA) 40 (1948).

lowing respects: (1) the powers of the Director of Natural Resources and the Oil and Gas Supervisor to prevent waste and to increase ultimate recovery are not as broad as those in other jurisdictions; (2) California is without an effective spacing or pooling law; (3) our laws permit, but do not compel, unitization. Experience locally and in other states has proven that all of these types of provisions are capable of increasing the ultimate recovery of oil or gas from any given pool.[48]

The question, however, whether such provisions should be adopted is, in the last resort, a matter of social concern. Every law which regulates a business activity for a public purpose must necessarily curtail the discretion of the persons concerned. Whether such a law should be enacted depends upon whether the representatives of society consider the public purpose to be of greater importance than the rights which are to be curtailed.[49] This is the issue which will be before the voters on November, 1956, when they pass on Proposition 4, an initiative measure entitled "Oil and Gas Conservation Act," which would fill the gaps in California law mentioned above, but would not restrict production to market demand.[50] Regardless of the outcome of this election, it is in the self-interest of the people of this state, and the oil industry, to continue to give serious thought to any program or legislation which would tend to preserve our very exhaustible supply of oil and gas.

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[48]It should be noted that Pub. Res. Code §6828 et seq. permits the State Lands Commission as to state lands under lease to require well spacing and fix rates of production of oil and gas in order to insure maximum recovery.

[49]See Maine, Ancient Law, Ch. II (1861).

[50]The arguments pro and con on this measure were ably presented in 31 L.A.B.B. (No. 7. May, 1956).

Tax Reminder

By CHARLES M. WALKER*

NEW SOCIAL SECURITY COVERAGE FOR LAWYERS

Before its recent adjournment Congress approved a broadening of the Social Security law which, among other things, extended coverage to self-employed lawyers. For the guidance of those who will be enrolling under the program for the first time, some of the pertinent information is summarized below.

1. *Account Number.* If you have a Social Security card, your account will be kept under the name and number there shown. If you never had an account number, you should obtain one by completing an application form (SS-5) obtained from your Social Security District Office or post office.

2. *Taxes You Pay.* To receive credits you must pay the Social Security tax. The tax on self-employed is 3% of net earnings up to $4,200 yearly payable on a separate Schedule C filed with your regular income tax return. Your first self-employment tax will be paid on your 1956 income, returns for which are due by April 15, 1957. The tax rate will increase to 3⅜% on 1957 income, payable in 1958.

3. *How to Qualify.* Men may qualify for monthly payments upon retirement at age 65, and women at age 62. Generally you are fully insured at retirement age or death if you have worked under social security for a total time equal to half the time elapsed between January 1, 1951, and the date of death or retirement. After you have ten full years of work under social security, you become insured for life. However, an important special provision makes it possible during the time up to October 1, 1960, to become fully insured with less work. If you die or reach age 65 (women age 62) after March 1957, you will be insured if you work all the time from January 1956 until you become 65 (women age 62) or die. If you are already 65, you will be insured April 1, 1957, if you have net earnings of $400 or more in 1956 and in 1957. However, no one can qualify without a minimum requirement of 1½ years social security credit.

4. *Currently Insured.* Benefits are payable to widowed mothers

*Member of the Los Angeles Bar Association and its Committee on Taxation.

and minor children in the event of your death at any age prior to becoming fully insured. This is on the basis of "currently insured" status at the time of death. A person is currently insured if he has social security credits for at least a year and a half out of the three years just before his death.

5. *Benefits.* Amounts of benefits are determined from average earnings over a period of time. On average yearly earnings of $4,200 or more, monthly retirement payments after age 65 would be $108.50 for you or $162.80 for you and your wife. If, however, between ages 65 and 72, you earn more than $1,200 in any year, your payments will be reduced, and if you earn more than $2,080, you will get no payments at all. There is no such limit after age 72. Also, after your death, $81.40 would be paid monthly to your widow, child or parent; $162.80 to your widow and one child; and $200 to your widow and two children. You also will be entitled to certain disability benefits.

If your information is desired, it may be obtained from any one of the nine Social Security offices in Los Angeles County. A special bulletin "Self-employment and Social Security" may be obtained upon request.

Continuing Education of the Bar
(Fall, 1956, Series)

The Los Angeles Bar Association's Committee on Continuing Education of the Bar announces that the State Bar's fall lecture series on "Legal Aspects of Real Estate Transactions" will be given starting Thursday, November 15, 1956 at 7:30 p.m.

The scheduled sessions, the topics and the lecturers are:

WEEK-NIGHT SESSION

Dates	Lectures	Lecturers
Thurs. & Tues.		
Nov. 15		
7:30 p.m.	1. Real Estate Contracts	Guy P. Greenwald, Jr.
Nov. 20		
7:30 p.m.	2. Escrows and Title Insurance	Kendall D. McCleery
Nov. 27		
7:30 p.m.	3. Real Estate Tax Planning	Henry C. Diehl
Nov. 29		
7:30 p.m.	4. Security Aspects	George L. Spence
Dec. 4		
7:30 p.m.	5. Leases	John Leslie Goddard

WEEK-END SESSION

Fri. & Sat.		
Dec. 7		
1:00 p.m.	1. Real Estate Contracts	Chester I. Lappen
Dec. 7		
3:30 p.m.	2. Escrows and Title Insurance	Richard H. Howlett
Dec. 7		
7:30 p.m.	3. Real Estate Tax Planning	Carl A. Stutsman, Jr.
Dec. 8		
9:00 a.m.	4. Security Aspects	Hon. Steven S. Weisman
Dec. 8		
1:00 p.m.	5. Leases	Morris Pfaelzer

The lectures will be held in the auditorium of the California Teachers Association at 1125 West Sixth Street.

Registering attorneys will get without extra charge two books. The first is the new California Practice Handbook on "Legal Aspects of Real Estate Transactions"—700 printed pages, cloth bound, and with a table of cases. Numerous annotated forms, check lists and information on important legal problems in the real estate field are included. The second book—290 pages—is on "Commercial and Investment Properties" and was prepared by leading real estate brokers who discuss the practical business aspects of eleven types of real estate properties.

The registration fee is $15.00.

The course is the latest of the regular series given twice yearly by the Los Angeles Bar Association and the State Bar through the facilities of University Extension of the University of California.

Further information can be obtained from Leslie C. Tupper, Chairman of the Committee, or by writing to Felix F. Stumpf, Administrator, Continuing Education of the Bar, 2441 Bancroft Way, Berkeley 4, California.

Bar Association Tax Committee Luncheon

Martin H. Webster will speak to the November luncheon meeting being sponsored by the Tax Committee of the Los Angeles Bar Association. His subject will be "Practical Tax Pointers on Incorporation." Mr. Webster is a graduate of the California Institute of Technology and Harvard Law School. He has been a lecturer at the University of Southern California Tax Institute and is the author of articles in Tax Law Review, Taxes and other publications.

John O. Paulston will preside at the meeting.

The meeting will be held at 12:00 noon on Thursday, November 8, 1956, in Conference Room 1 of the Biltmore Hotel. The seating capacity of this room is limited to 110. Members who wish to attend the meeting should send their reservations and checks to the Los Angeles Bar Association, 510 South Spring Street, Los Angeles 13, California. The cost of the luncheon is $2.30. The October meeting was sold out and members are urged to send in their reservations promptly.

Brothers-In-Law

By George Harnagel, Jr.

George Harnagel, Jr.

The Election Frauds Bureau of the office of the Attorney General of the State of **New York** requested members of the bar of that state to volunteer as special duty attorneys general for the purpose of enforcing the provisions of the Election Law during the registration and voting periods of the November election.

* * *

"After some four years of concerted effort, the Bar Association is still working to achieve a separate Federal Judicial District for San Diego and Imperial Counties.

"As matters now stand, it looks as though this year we again will be hamstrung by certain elements which for one reason or another don't wish to see any increase in the number of Federal Districts. The sheer logic of our need for Federal judicial independence from greater Los Angeles will eventually prevail, and we will have our own district. . . ."—From *Dicta,* published by the **San Diego County** Bar Association.

* * *

Members of the State Bar of **Texas** are voting on a proposal to increase the annual dues from $12 to $20. Proponents of this increase point out that lawyers now pay considerably lower association dues than many other Texas professional and occupational groups and submit the following tabulation: Lawyers, $12; physicians, $50; dentists, $20; chiropractors, $60; optometrists, $60; accountants, $40; architects, $20; engineers, $25; and plumbers, $40.

STATEMENT REQUIRED BY THE ACT OF AUGUST 24, 1912, AS AMENDED BY THE ACTS OF MARCH 3, 1933, AND JULY 2, 1946 (Title 39, United States Code, Section 233) SHOWING THE OWNERSHIP, MANAGEMENT, AND CIRCULATION OF

LOS ANGELES BAR BULLETIN, published monthly at Los Angeles, California, for October, 1956.

1. The names and addresses of the publisher, editor, managing editor, and business managers are:

Publisher—Los Angeles Bar Association, 510 S. Spring St., Los Angeles 13, Calif.

Editor—Frederick G. Dutton, 810 South Flower St., Los Angeles 17, Calif.

Managing Editor—None.

Business Manager—Robert M. Parker, 241 E. Fourth St., Los Angeles 13, Calif.

2. The owner is: (If owned by a corporation, its name and address must be stated and also immediately thereunder the names and addresses of stockholders owning or holding 1 per cent or more of total amount of stock. If not owned by a corporation, the names and addresses of the individual owners must be given. If owned by a partnership or other unincorporated firm, its name and address, as well as that of each individual member, must be given.) William P. Gray, President, 458 S. Spring St., Los Angeles 13, Calif.; Hugh W. Darling, Secretary, 523 W. Sixth St., Los Angeles 14, Calif.; Frank C. Weller, Treasurer, 111 W. Seventh St., Los Angeles 14, Calif.; Los Angeles Bar Association, Publisher, 510 S. Spring St., Los Angeles 13, Calif.

3. The known bondholders, mortgagees, and other security holders owning or holding 1 per cent or more of total amount of bonds, mortgages, or other securities are: (If there are none, so state.) NONE.

4. Paragraphs 2 and 3 include, in cases where the stockholder or security holder appears upon the books of the company as trustee or in any other fiduciary relation, the name of the person or corporation for whom such trustee is acting; also the statements in the two paragraphs show the affiant's full knowledge and belief as to the circumstances and conditions under which stockholders and security holders who do not appear upon the books of the company as trustees, hold stock and securities in a capacity other than that of a bona fide owner.

5. The average number of copies of each issue of this publication sold or distributed, through the mails or otherwise, to paid subscribers during the 12 months preceding the date shown above was: (This information is required from daily, weekly, semiweekly, and triweekly newspapers only.)

ROBERT M. PARKER,
Business Manager.

Sworn to and subscribed before me this 26th day of September, 1956.

[Seal]

MARGUERITE F. CRIPPS,
Notary Public in and for the County of Los Angeles, State of California.

My commission expires January 3, 1960.